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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/616,039	07/09/2003	Roger Nolan	103681-112799	9796

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EXAMINER

WILKENS, JANET MARIE

ART UNIT	PAPER NUMBER
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3637

DATE MAILED: 12/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/616,039

Applicant(s)

NOLAN, ROGER

Examiner

Janet M. Wilkens

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9, 11, 12 and 20-22 is/are allowed.
- 6) ☒ Claim(s) 1-8, 10 and 13-19 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

Specification

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The disclosure is objected to because of the following informalities: on page 10, line 23, the upper and lower cargo support device alignment is shown in Figure 5, not Figure 4. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 6, 7 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Scaramuzzi. Scaramuzzi teaches a cargo support device (Figs. 2 and 3) comprising a platform (horizontal surface member of 20 with sides 22,23) having a cargo support surface (23) and base members (11) projecting from the platform. Each of the base

members having a curved recess defined therein; the recess being comprised of a positioning surface (15) with a sloping wall, a receiving surface (13) with a concave wall portion having a substantially constant radius and a lifting surface (14).

Claims 1, 2 and 5-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Scaramuzzi. Scaramuzzi teaches a cargo support device (Figs. 1 and 3) comprising a platform (horizontal surface member of 20 with sides 22,23) having a cargo support surface (23) and base members (11) projecting from the platform. Each of the base members having a curved recess defined therein; the recess being comprised of a positioning surface (15) with a sloping wall, a receiving surface (14) and a horizontal lifting surface (13).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Scaramuzzi. As stated above, Scaramuzzi teaches the limitations of claim 1, including a support device with a platform and bases. For claim 8, Scaramuzzi fails to teach that the device is made of a polymer. Note: product by process limitations are given no weight in the claims. The examiner takes Official notice that plastic/polymer pallets/support devices are well known in the art. Therefore, it would have been an

obvious design consideration to one of ordinary skill in the art to make the device of Scaramuzzi out of any of a number of different materials including plastic/ polymer, depending on the desired need of the person constructing the support device, i.e. depending on the material readily available, strength properties required/desired, personnel preferences, economic reasons, etc.

Claims 13-16, 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Scaramuzzi in view of Phillips. Scaramuzzi teaches a cargo support device (Figs. 2 and 3) comprising a platform (horizontal surface member of 20 with sides 22,23) having a cargo support surface (23) and base members (11) projecting from the platform. Each of the base members having a curved recess defined therein; the recess being comprised of a positioning surface (15) with a sloping wall, a receiving surface (13) with a concave wall portion having a substantially constant radius and a lifting surface (14). For claim 13, Scaramuzzi fails to teach upstanding walls on the support device. Phillips teaches the use of upstanding walls (30,31,40-44) on a support device. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the device of Scaramuzzi by adding four upstanding walls thereon (which are in alignment with the outer base members), such as is taught by Phillips, to provide a rim on the device which would prevent articles on the device from sliding off, to provide a container structure on the device for the storage of articles, etc.

For claim 19, Scaramuzzi in view of Phillips fails to teach that the device is made of a polymer. Note: product by process limitations are given no weight in the claims. The examiner takes Official notice that plastic/polymer pallets/support devices are well

known in the art. Therefore, it would have been an obvious design consideration to one of ordinary skill in the art to make the device of Scaramuzzi in view of Phillips out of any of a number of different materials including plastic/ polymer, depending on the desired need of the person constructing the support device, i.e. depending on the material readily available, strength properties required/desired, personnel preferences, economic reasons, etc.

Claims 13, 14 and 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Scaramuzzi in view of Phillips. Scaramuzzi teaches a cargo support device (Figs. 1 and 3) comprising a platform (horizontal surface member of 20 with sides 22,23) having a cargo support surface (23) and base members (11) projecting from the platform. Each of the base members having a curved recess defined therein; the recess being comprised of a positioning surface (15) with a sloping wall, a receiving surface (14) and a horizontal lifting surface (13). For claim 13, Scaramuzzi fails to teach upstanding walls on the support device. Phillips teaches the use of upstanding walls (30,31,40-44) on a support device. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the device of Scaramuzzi by adding four upstanding walls thereon (which are in alignment with the outer base members), such as is taught by Phillips, to provide a rim on the device which would prevent articles on the device from sliding off, to provide a container structure on the device for the storage of articles, etc.

For claim 19, Scaramuzzi in view of Phillips fails to teach that the device is made of a polymer. Note: product by process limitations are given no weight in the claims.

The examiner takes Official notice that plastic/polymer pallets/support devices are well known in the art. Therefore, it would have been an obvious design consideration to one of ordinary skill in the art to make the device of Scaramuzzi in view of Phillips out of any of a number of different materials including plastic/polymer, depending on the desired need of the person constructing the support device, i.e. depending on the material readily available, strength properties required/desired, personnel preferences, economic reasons, etc.

Allowable Subject Matter

Claims 9, 11, 12 and 20-22 are allowed. (The allowable subject matter being the cargo support device having a platform and base members; each base member having a curved recess therein with a sloping wall portion, a concave receiving surface wall portion and a substantially horizontal wall portion lifting surfaces.)

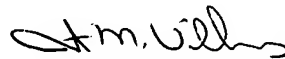
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janet M. Wilkens whose telephone number is (703) 308-2204. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (703) 308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Wilkins
December 3, 2004


JANET M. WILKENS
PRIMARY EXAMINER
Art Unit 3637